

THE PRECEDENT FOR THE 18-MONTH DESIGN AND MANUFACTURING CYCLE IN THE TELEVISION INDUSTRY IS WELL ESTABLISHED

The 18-month design and manufacturing cycle in the television industry is an established precedent. Policymakers and regulators have long recognized that 18 months is the amount of time necessary to ensure the production of high quality products that meet consumers' expectations. The FCC and Congress have repeatedly and without exception recognized the 18-month cycle precedent when they have imposed manufacturing requirements on TV set producers. For example:

- When the FCC required that digital televisions comply with the new digital v-chip standard, the FCC stated:

...We understand that the design cycle of a television receiver model is generally about 18 months. The Commission has previously taken into consideration receiver design cycles in proceedings that required the introduction of new television technology.... Therefore, we believe it is reasonable to provide an 18 month transition period. After the transition period, all digital television receivers will be required to provide v-chip functions following the regulations that we adopt in this proceeding.

See Second Period Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television, Report and Order, 19 FCC Rcd 18279 at ¶ 159 (2004) (citations omitted).

- When Congress required the FCC to adopt rules for televisions to comply with the v-chip, the FCC stated:

...[T]he design cycle for a television receiver model takes approximately 18-24 months.... We believe that our rules should conform with these schedules and provide a smooth transition for product introduction. We realize that, given these schedules, manufacturers are well into the production phase of sets that will be released in July 1998. Therefore, we will not require that these sets contain blocking technology. Furthermore, it would be detrimental to consumer confidence if forced compression of manufacturer design schedules resulted in the release of an unsatisfactory product....

See Technical Requirements to Enable Blocking of Video Programming Based on Program Ratings, Implementation of Sections 551(c), (d), and (e) of the Telecommunications Act of 1996, Report and Order, 13 FCC Rcd 11248 at ¶¶ 21-24 (1998) (citations omitted).

- When the FCC adopted rules for digital televisions to comply with Closed Captioning, the FCC stated:

...In previous Commission decisions we have taken into account the complexities involved in redesigning television receivers and have stated that our rules should conform with television design cycles and provide a smooth transition for product introduction. We continue to believe that our rules must reflect manufacturing cycles. It would be counterproductive to our goal of ensuring accessibility to closed captioning if our compliance deadline did not allow for a thorough product design and testing period....

See Closed Captioning Requirements for Digital Television Receivers, Closed Captioning and Video Description of Video Programming, Implementation of Section 305 of the Telecommunications Act of 1996, Video Programming Accessibility, Report and Order, 15 FCC Rcd 16788 at ¶¶ 54-58 (2000) (citations omitted).